

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

SAMUEL SURLES,

Plaintiff,

CIVIL ACTION NO. 07-CV-13555

vs.

DISTRICT JUDGE GERALD E. ROSEN

MAGISTRATE JUDGE MONA K. MAJZOUN

DONALD ANDISON, et al.,

Defendants.

_____ /

ORDER GRANTING PLAINTIFF'S MOTION TO STAY (DOCKET NO. 105)

Plaintiff filed his Complaint on August 23, 2007, alleging that Defendants confiscated legal documents, damaged or destroyed legal and religious property, deprived him of access to the courts, and violated his First Amendment rights. (*See* docket no. 1.) On June 9, 2009 the Court dismissed Plaintiff's Complaint (docket no. 63), and Plaintiff filed an appeal (docket no. 65). On March 8, 2012, the Sixth Circuit granted Plaintiff's Appeal, reversed the Court's determination, and remanded this matter for further determination. (Docket no. 68.)

On October 31, 2012 the Court appointed attorney Jarvis E. Williams to represent Plaintiff. (Docket no. 83.) After participating in a status conference and becoming familiar with the case, on January 27, 2013 Attorney Williams filed a Motion for Leave to File Amended Complaint on Plaintiff's behalf. (Docket no. 90.) On May 16, 2013 the Court denied Plaintiff's Motion, finding that "if Plaintiff amended his Complaint as requested, it would not survive under Fed. R. Civ. P. 12(b)(6)"; thus, had the Court granted Plaintiff's Motion, the matter would have been dismissed in its entirety. (Docket no. 91 at 5.) On December 18, 2013 Defendants filed a Motion for Summary

Judgment. (Docket no. 101.) And on April 17, 2014, after several attempts to contact Attorney Williams, the Court entered an Order for Attorney Williams to Show Cause why he had failed to file a Response to Defendants' Motion on his client's behalf. (Docket no. 103.) Attorney Williams did not comply with the Court's Order, so on May 2, 2014, the Court removed Attorney Williams from this matter.

There are currently five motions pending in this matter: (1) Plaintiff's Motion to Compel (docket no. 97); (2) Plaintiff's Motion for Status Conference (docket no. 99); (3) Defendant's Motion for Summary Judgment; (4) Plaintiff's Motion to Stay (docket no. 105); and Plaintiff's Motion Not to Transfer Plaintiff (docket no. 106). Additionally, Plaintiff has requested that the Court appoint him a new attorney. (*See* docket nos. 102 and 104.) All pretrial matters have been referred to the undersigned for consideration. (Docket no. 74.) The Court dispenses with oral argument pursuant to E.D. Mich. LR 7.1(f). Plaintiff's Motion to Stay is ready for ruling pursuant to 28 U.S.C. § 636(b)(1)(A).

Plaintiff asks that this matter be stayed "until such time [as] the Court appoint[s] new counsel." (Docket no. 105 at 1.) The Court is in the process of attempting to secure new counsel for Plaintiff and will, therefore, grant his Motion to Stay. Notably, though, appointment of counsel in a civil case is not a constitutional right, but rather is a matter left to the discretion of the court. *Lavado v. Keohane*, 992 F.2d 601, 604-05 (6th Cir. 1993); *Childs v. Pellegrin*, 822 F.2d 1382, 1384 (6th Cir. 1987) (citation omitted). Thus, the Court will stay this matter until October 3, 2014, while it attempts to secure counsel for Plaintiff. If the Court is unable to secure counsel by October 3, 2014, the Court will order Plaintiff to proceed on his own and respond to Defendants' Motion for Summary Judgment. Additionally, the Court will reserve its decision on the other pending Motions

in this matter until the stay is lifted.

IT IS SO ORDERED.

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of fourteen days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. § 636(b)(1).

Dated: July 30, 2014

s/ Mona K. Majzoub

MONA K. MAJZOUB

UNITED STATES MAGISTRATE JUDGE

Proof of Service

I hereby certify that a copy of this order was served upon Samuel Surles and Counsel of Record on this date.

Dated: July 30, 2014

s/ Lisa C. Bartlett

Case Manager